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SIPDIS
SENSITIVE

DEPT PASS EX-IM-RMORIN
DEPT FOR EAP/MTS, EB/A/TRA/DL AND EEB/IFD/ODF-DWILLIAMS

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SUBJECT: INDONESIA SEEKS BETTER FINANCING WITH CAPE TOWN TREATY

REF: JAKARTA 00691

11. (U) This is an Action Cable. Please see paragraph 12.

12. (U) This message is Sensitive but Unclassified. Please protect the business sensitive information in para 4.

13. (U) SUMMARY: Indonesian airline Lion Air has requested loan guarantees from the U.S. Export-Import Bank (Ex-Im) for purchase of Boeing airplanes. Ex-Im has said its decision hangs on the question of whether the Cape Town Treaty (CTT) has been fully implemented in Indonesia. In April 2007, the Government of Indonesia ratified by presidential decree the CTT, an international treaty that attempts to standardize the transactions of movable property, particularly aircraft and aircraft engines. Although some Indonesian law firms have said that CTT was fully implemented in Indonesia upon ratification by presidential decree, others, including Ex-Im's local counsel, have contested this point. The Indonesian Parliament would like to enact CTT legislation and seeks additional input on appropriate legal language. Meanwhile, the Ministry of Transportation is drafting CTT operating rules. END SUMMARY.

Ex-Im May Give \$1 Billion Loan Guarantee on Boeing Aircraft

14. (SBU) Lion Air has ordered 178 Boeing 737-900 Extended Range (ER) airplanes, with purchase rights for an additional 50 737-900ERs. On October 24, 2007, Ex-Im authorized a final commitment and preliminary commitment totaling over \$1 billion for 30 of these aircraft subject to Congressional review and other conditions, including CTT implementation in Indonesia.

Conflicting Views on CTT Implementation

15. (SBU) There are conflicting views on whether CTT is implemented in Indonesia. Ex-Im says Indonesia further requires national legislation and implementing regulations by the Ministry of Transportation to fully implement CTT. Lion Air says CTT was fully implemented at the time of ratification by presidential decree. Without agreement on implementation of CTT in Indonesia, Ex-Im officials cannot recommend to its board of directors the approval of loan guarantees for Lion Air.

Indonesia Wants CTT Legislation and Operating Rules

16. (SBU) On April 16, Minister of Transportation Jusman Syafii Djamal told Ambassador Hume that he supported efforts to enact CTT legislation and that his Ministry was in the process of developing operating rules. We briefed Parliament's Commission V (oversees transportation issues) Chairman Akhmad Muqowam and Members Enggartiasto Lukita and Taufik Kurniawan on CTT and submitted to them a copy of draft CTT legislation suggested by Ex-Im. The Parliament members promised to review the issue and said the timing was ideal as they were preparing to revise the civil aviation law,

which they expected to pass in July or September 2008. Ministry of Transportation Directorate General of Civil Aviation's (DGCA) leading expert on CTT Edward Silooy and Deputy Director of Human Resources and Foreign Cooperation Indriarti Tirza, told us that subsequent to our meeting with Commission V, Parliament members asked DGCA to draft CTT legislation for inclusion in the civil aviation revised law. Silooy said some airlines, including flagship carrier Garuda, had also expressed interest in CTT legislation.

¶7. On June 24, Ambassador Hume met with the Indonesian National Air Carriers Association (INACA) secretary general and several members, including airline executives of Garuda, Lion Air, Batavia Air, Sriwijaya Air, Merpati and Global Transport Services. Ambassador Hume discussed the potential financial benefits of CTT to the airline industry. INACA Chairman, who is also President and Chief Executive Officer of Garuda, Emirsyah Satar suggested INACA meet with Parliament and Ministry of Transportation to voice industry support for CTT legislation. In a meeting with Minister Djamal later that day, Satar raised CTT and the Minister said he would insert CTT in the civil aviation reform law. Ambassador Hume also discussed CTT with Deputy Coordinating Minister for International Economic Cooperation Mahendra Siregar, who expressed interest in lower cost financing opportunities for Indonesian airlines.

Uncertainty about Legal Language

¶8. (SBU) Lion Air President Director Rusdi Kirana told us he had discussed CTT legislation with his contacts at Parliament's Commission V who asked which parts of CTT needed to be included in the legislation. Kirana asked us to relay this request to Ex-Im. Kirana expressed uncertainty as to DGCA's capacity to draft legal language on CTT that would satisfy both Parliament and Ex-Im.

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Operating Rules in Progress

¶9. (SBU) Silooy told us DGCA was developing operating rules in consultation with a team of three leading civil aviation law firms, including Lion Air's local counsel, and in parallel with national legislation. He expects Minister Djamal to issue operating rules by ministerial decree one to two months after Parliament passes the civil aviation law revision.

GOI Official Requests CTT Expert Assistance

¶10. (U) Silooy requested we fund the visit to Indonesia of Jeffrey Wool, secretary and general counsel of Aviation Working Group, a non-profit legal entity closely associated with CTT and comprising major aviation manufacturers, leasing companies and financial institutions. Silooy said Jeffrey Wool would be able to help Indonesian airlines understand CTT and how they might benefit from it.

¶11. (U) Post will continue to work closely with Ex-Im, Boeing, Ministry of Transportation, Indonesian airlines and Parliament to help Indonesia take full advantage of CTT. Ambassador Hume has requested meetings with Parliament Commission V members and the Minister of Transportation to discuss progress on CTT legislation and operating rules.

Action Request

¶12. (U) Post urgently requests the hiring of local counsel to work with the Ministry of Transportation and Parliament on CTT legal language to meet Ex-Im's requirements.

HUME